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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,851	03/15/2001	David P. Veilleux	10261US01	5248

7590 04/22/2005

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EXAMINER

VIG, NARESH

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/808,851	VEILLEUX ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Naresh Vig	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 3 - 6, 8 - 16, 18 - 21, 24 - 36, 38 - 41 and 44 - 74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3 - 6, 8 - 16, 18 - 21, 24 - 36, 38 - 41 and 44 - 74 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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## **DETAILED ACTION**

This is in reference to response received 21 March 2005 to the office action mailed 11 January 2005. There are 67 claims, claims 1, 3 – 6, 8 – 16, 18 – 21, 24 – 36, 38 – 41 and 44 – 74.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 3 – 6, 8 – 16, 18 – 21, 24 – 36, 38 – 41 and 44 – 74 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3 – 6, 8 – 10, 16, 18 – 21, 24 – 28, 35, 36, 38 – 41 and 44 – 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over EColor Incorporated

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hereinafter known as EColor in view of Bernard et al. US Patent 6,744,448 hereinafter known as Bernard.

Regarding claims 1, 16 and 36, EColor teaches system and method for delivering accurate color for online images [page 11]. EColor teaches characterizing colorimetric responses of display devices associated with destination clients by delivering a series of web pages to the source and destination clients that guide the clients through a color profiling process [page 11]. Ecolor does not teach characterizing colorimetric responses of display devices associated with source clients. However, Bernard teaches system and method for color imaging technology. Bernard teaches conventional methods for color corrected digital images require the characterization of a video system used to create a digital image (source) and the characterization of a video or printing system that is displaying the color corrected image (client). This is typically done by matching the display properties of the source and client, either by mathematical transforms of respective color spaces or by forcing the source and client into a matching color state.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor as taught by Bernard and characterize colorimetric responses of display devices associated with source clients to understand what correction needs to be performed on the source image so it is displayed accurately on the destination client.

EColor in view of Bernard teaches:

receiving color images from the source clients via a computer network [page 12]

modifying the color images based on the colorimetric responses of display devices associated with the source clients (responded to earlier)

modifying the color images based on the colorimetric responses of display devices associated with the destination client [page 12]

communicating the modified ,color images to the destination clients via the computer network [page 12].

Regarding claims 3, 18 and 38, EColor in view of Bernard teaches modifying the color images at a network server, wherein the network server includes a web server (design choice), and the images are accessible via a web site served by the web server [page 12].

Regarding claims 4, 19 and 39, EColor in view of Bernard teaches modifying the color images at a network server before communication of the color images to the destination clients [page 12]

Regarding claims 5, 20 and 40, EColor in view of Bernard does not teach source clients include auction sellers, the images represent auction items, and the destination clients include auction buyers. However, Official notice it taken that it would have been obvious to one of ordinary skill in the art at the time the invention was made that it is a business choice on who the customers are for using the system. One of ordinary skill in the art can modify EColor in view of Bernard for auction service providers like Ebay to

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display color corrected images to the bidders, and, the images will represent auction items, and the destination clients will include auction buyers.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor in view of Bernard for auction sellers to market the product on online auctions service providers.

Regarding claims 6, 21 and 41, it would have been obvious to one of ordinary skill in the art at the time the invention was made to EColor in view of Bernard teaches source clients include, and the images represent photographs taken by the photographers (e.g. customers selling articles on online auction service like Ebay takes a photograph of the item to be posted on EBay website).

Regarding claims 8, 25 and 44, EColor in view of Bernard teaches characterizing colorimetric responses of display devices associated with source clients and destination clients by delivering a series of web pages to the source and destination clients that guide the client through a color profiling process.

EColor in view of Bernard teaches:

guiding the clients through the color profiling process by delivering a series of web pages to the clients [page 11];

EColor does not specifically teach generating web cookies (design choice to elect what technology to use for storing customer specific information) for the clients containing information representing the results of the color profiling process.

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However, EColor teaches hosting clients images and deliver perfectly color images to their customers. It would have been obvious to one of ordinary skill in the art at the time the invention was made that EColor has the capability of knowing client's customers computer systems to be able to transmit corrected information to them.

EColor does not specifically teach transmitting the web cookies to a network server for use in the modification of the color images. However, EColor teaches hosting clients images and deliver perfectly color images to their customers. It would have been obvious to one of ordinary skill in the art at the time the invention was made that EColor has the capability of knowing client's customers computer systems to be able to transmit corrected information to them., and, transmits corrected color images based on the information about client's customers stored on EColor servers.

Regarding claims 9, 26, 27 and 45, EColor in view of Bernard does not specifically teach network server modifies the color images based on the contents of the web cookies. However, EColor teaches hosting clients images and deliver perfectly color images to their customers. It would have been obvious to one of ordinary skill in the art at the time the invention was made that EColor has the capability of knowing client's customers computer systems to be able to transmit corrected information to them., and, transmits corrected color images based on the information about client's customers stored on EColor servers.

Regarding claims 10, 28 and 46, EColor in view of Bernard teaches the network server resides on the World Wide Web, and the color images form parts of web pages received by the clients from the network server (EColor teaches to provides services over the World Wide Web).

Regarding claim 24, Ecolor in view of Bernard teaches color profiling process includes estimating a gamma for each of the display devices [EColor, page 18 – 23].

Regarding claim 35, EColor in view of Bernard teaches program code is contained both in physical data storage media (e.g. html stored on server hard-drive) and signals transmitted between the client and other resources on the computer network (e.g. html transmitted from server to client).

Claims 11 – 15, 29 – 34 and 47 - 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over EColor Incorporated hereinafter known as EColor in view of Bernard et al. US Patent 6,744,448 hereinafter known as Bernard and eBay.

Regarding claims 11, 29, 47 and 48, EColor in view of Bernard does not specifically teach calculating a fee for each modified image (charging fee for each



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item serviced by EColor). However, eBay teaches system and method for providing online services, and, charging fee to users for providing services to users.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor in view of Bernard as taught by eBay to generate revenue to keep system operational.

Regarding claims 12 and 30, EColor in view on Bernard and eBay teaches permitting the source clients to specify whether the color images are to be modified (EColor does not say that once the customer signs up with EColor, they have to send all images through EColor); and charging the fee to the source clients in the event modification of the color images is specified (responded to earlier in response to claim 11).

Regarding claim 13, EColor in view of Bernard and eBay teaches permitting the destination clients to specify whether the color images are to be modified (customer has choice to configure their system with EColor) [page 11]; and charging the fee only in the event modification of the color images is specified (responded to earlier in response to claim 11).

Regarding claims 14, 31 and 49, EColor in view of Bernard does not specifically teach source clients are auction sellers (business choice to elect type of users). However, eBay teaches sellers who use eBay are auction sellers.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor in view of Bernard as taught by eBay and limit sellers to auction sellers to use the system and method in electronic auction market.

EColor in view of Bernard and eBay teaches the images represent auction items (obvious when sellers are auction sellers), and the destination clients are auction buyers (obvious when buyer is bidding on auction items), calculating a fee for each modified image, and charging the fee to one or both of the source and destination clients involved in an auction sale (responded to earlier in response to claims 11 – 14).

Regarding claim 32, EColor in view on Bernard and eBay teaches permitting the source clients to specify whether the color images are to be modified (EColor does not say that once the customer signs up with EColor, they have to send all images through EColor); and charging the fee to the source clients in the event modification of the color images is specified (responded to earlier in response to claim 11).

Regarding claims 33, EColor in view of Bernard and eBay teaches permitting the destination clients to specify whether the color images are to be modified (customer has choice to configure their system with EColor) [page 11]; and charging the fee only in the event modification of the color images is specified (responded to earlier in response to claim 11).

Regarding claims 15, 34 and 50, EColor in view of Bernard teaches does not specifically teach source clients include auction sellers (business choice to elect type of users). However, eBay teaches sellers who use eBay are auction sellers, and buyers who are auction buyers.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor in view of Bernard as taught by eBay and limit buyers to auction buyers to use the system and method in electronic auction market to bring clients for auction sellers.

EColor in view of Bernard and eBay teaches the images represent auction items, and the destination clients include auction buyers, the method further comprising calculating, for each modified image, a fee based on a percentage of the sales amount paid between source and destination clients involved in an auction sale (business choice to decide rules for charging fee), and charging the fee to one or both of the source and destination clients involved in the auction sale (responded to earlier in response to claims 11 – 14).

Regarding claim 74, EColor in view of Bernard and eBay teaches a fee calculation module that calculates and charges a fee to the source clients in the event modification of the color images is specified (charging fee to the user when the user uses the system). eBay teaches sellers pay eBay when they use eBay to list their products over eBay.

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Claims 51 – 52, 54 – 56, 59 – 60, 62 – 64, 68 – 69 and 71 - 72, are rejected under 35 U.S.C. 103(a) as being unpatentable over EColor Incorporated hereinafter known as EColor in view of Bernard et al. US Patent 6,744,448 hereinafter known as Bernard and Schwartz US Patent 6,075,888

Regarding claims 51, 59 and 68, EColor teaches system, method and computer readable medium for delivering accurate color for online images [page 11]. EColor teaches:

characterizing colorimetric responses of display devices associated with destination clients by delivering a series of web pages to the source and destination clients that guide the clients through a color profiling process [page 11]. Ecolor does not teach characterizing colorimetric responses of display devices associated with source clients. However, Bernard teaches system and method for color imaging technology. Bernard teaches conventional methods for color corrected digital images require the characterization of a video system used to create a digital image (source) and the characterization of a video or printing system that is displaying the color corrected image (client). This is typically done by matching the display properties of the source and client, either by mathematical transforms of respective color spaces or by forcing the source and client into a matching color state.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor as taught by Bernard and characterize colorimetric responses of display devices associated with source clients to understand

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what correction needs to be performed on the source image so it is displayed accurately on the destination client.

EColor in view of Bernard teaches:

receiving color images from the source clients via a computer network [page 11];

storing the color images at network server that includes a web server [page 11], wherein the stored images are accessible via a web site maintained by the web server [page 11],

modifying the color images based on the colorimetric responses of the display devices associated with the destination clients;

communicating the modified color images to the destination clients that access the web site via the computer network [page 11].

EColor in view of Bernard does not teach modifying the color images based on the colorimetric responses of the display devices associated with the source clients. However, Schwartz teaches modifying the color images based on the colorimetric responses of the display devices associated with the source clients [abstract].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor in view of Bernard as taught by Schwartz to convert the source image to a common format to minimize the complexity of image conversion.

Regarding claims 52, 60 and 69, EColor in view of Bernard and Schwartz teaches modifying the color images at the network server before communication of the color images to the destination clients [EColor page 11].

Regarding claims 54, 62 and 71 EColor in view of Bernard and Schwartz teaches source clients include photographers (business choice to elect type of users), and the images represent photographs taken by the photographers (obvious that photographs take photographs) [EColor page 11].

Regarding claims 55, 63 and 72, EColor does not specifically teach generating web cookies (design choice to elect what technology to use for storing customer specific information) for the clients containing information representing the results of the color profiling process. However, EColor teaches hosting clients images and deliver perfectly color images to their customers. It would have been obvious to one of ordinary skill in the art at the time the invention was made that EColor has the capability of knowing client's customers computer systems to be able to transmit corrected information to them.

EColor does not specifically teach transmitting the web cookies to a network server for use in the modification of the color images. However, EColor teaches hosting clients images and deliver perfectly color images to their customers. It would have been obvious to one of ordinary skill in the art at the time the invention was made that EColor has the capability of knowing client's customers computer

systems to be able to transmit corrected information to them., and, transmits corrected color images based on the information about client's customers stored on EColor servers.

Regarding claim 56 and 64, EColor teaches color images form parts of web pages received by he destination clients from the web server.

Regarding claim 73, EColor in view of Bernard and Schwartz teaches network server resides on the World Wide Web, and the color images form parts of web pages received by the clients from the network server.

Claims 53, 57 – 58, 61, 65 – 66 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over EColor Incorporated hereinafter known as EColor in view of Bernard et al. US Patent 6,744,448 hereinafter known as Bernard, Schwartz US Patent 6,075,888 and eBay.

Claims 53, 61 and 70, EColor in view of Bernard and Schwartz does not teach source clients include auction sellers (business choice to elect type of users), the images represent auction items (business choice to elect what can be traded on system), and the destination clients include auction buyers (business choice to elect type of users). However, eBay teaches source clients include auction sellers (business

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choice to elect type of users), the images represent auction items (business choice to elect what can be traded on system), and the destination clients include auction buyers (business choice to elect type of users).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor in view of Bernard and Schwartz as taught by eBay to use the system and method for electronic auction market.

Regarding claims 57, 65, EColor in view on Bernard, Schwartz and eBay teaches permitting the source clients to specify whether the color images are to be modified (EColor does not say that once the customer signs up with EColor, they have to send all images through EColor); and charging the fee to the source clients in the event modification of the color images is specified (responded to earlier in response to claim 53).

Regarding claims 58, 66, EColor in view of Bernard, Schwartz and eBay teaches permitting the destination clients to specify whether the color images are to be modified (customer has choice to configure their system with EColor) [page 11]; and charging the fee only in the event modification of the color images is specified (responded to earlier in response to claim 53).

Regarding claim 67, EColor in view of Bernard and Schwartz teaches does not specifically teach source clients include auction sellers (business choice to elect type



of users). However, eBay teaches sellers who use eBay are auction sellers, and buyers who are auction buyers.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify EColor in view of Bernard as taught by eBay and limit buyers to auction buyers to use the system and method in electronic auction market to bring clients for auction sellers.

EColor in view of Bernard, Schwartz and eBay teaches the images represent auction items, and the destination clients include auction buyers, the method further comprising calculating, for each modified image, a fee based on a percentage of the sales amount paid between source and destination clients involved in an auction sale (business choice to decide rules for charging fee), and charging the fee to one or both of the source and destination clients involved in the auction sale (responded to earlier in response to claims 61, 65, 66).

### ***Conclusion***

Applicant is required under 37 CFR '1.111 (c) to consider the references fully when responding to this office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is (571) 272-6810. The examiner can normally be reached on M-F 7:30 - 5:00 (Alt Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703.308.2702. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Naresh Vig', with a stylized flourish at the end.

Naresh Vig  
Examiner  
Art Unit 3629  
April 18, 2005